



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN, TEXAS 78711**

**WAGGONER CARR  
ATTORNEY GENERAL**

May 31, 1966

Mr. Harvey Davis  
Texas Soil and Water Conservation Board  
1014 First National Building  
Temple, Texas

Opinion No. C-699

Re: Does a Soil and Water Conservation District, as a governmental subdivision of the State of Texas with powers and restrictions as set forth by Article 165a-4, V.C.S., have the authority to form a separate corporation, non-profit in nature, to own and operate a natural gas distribution system?

Dear Sir:

You have requested an opinion of this office concerning the following question:

"Does a Soil and Water Conservation District, as a governmental subdivision of the State of Texas with powers and restrictions as set forth by Article 165a-4, V.C.S., have the authority to form a separate corporation, non-profit in nature, to own and operate a natural gas distribution system?"

A "soil and water conservation district" (now so designated under Acts 1965, Page 370, Ch. 176) is governed by the provisions of Article 165a-4, V.C.S., such law being passed to carry out the mandate expressed in Article 16, Sec. 59, Constitution of the State of Texas. Article 165a-4 authorizes the creation of such districts and vests them with certain powers to carry out the purposes set forth in the statute. Such districts are political subdivisions of the State with authority to exercise certain rights, privileges and functions pertaining to conservation and reclamation. Attorney General's Opinion V-999.

The districts authorized by Article 165a-4 are vested with the same powers and must operate within the same limitation as

Mr. Harvey Davis, page 2 (C-699)

other conservation districts authorized by the Legislature to carry out the mandate of Article 16, Sec. 59. Attorney General's Opinion No. V-69. A soil conservation district may thus be considered to perform limited rather than general functions. Lower Nueces River Water Supply District v. Cartwright, 274 S.W.2d 199, (Tex.Civ.App., error ref., n.r.e. 1955).

Speaking generally of the nature and extent of powers possessed by a conservation district similar to a soil conservation district, the Supreme Court, in Tri-City Fresh Water Supply District No. 2 of Harris County v. Mann, 135 Tex. 280, 142 S.W.2d 945 (1940), had the following to say:

"The powers of such district are measured by the terms of statutes which authorized their creation, and they can exercise no authority that has not been clearly granted by the Legislature."  
(Emphasis added)

A close review of Article 164a-4 fails to yield any specific authorization allowing a soil conservation district to form a separate corporation to own and operate a natural gas distribution system. Failing such specific authorization, we therefore conclude that under the terms of Article 165a-4, a soil conservation district may not create a separate, non-profit corporation to own and operate a natural gas distribution system.

#### SUMMARY

Article 165a-4 does not authorize a soil and water conservation district to create a separate, non-profit corporation for the purposes of owning and operating a natural gas distribution system.

Yours very truly,

WAGGONER CARR  
Attorney General of Texas

By: 

GEORGE C. BLACK, JR.  
Assistant Attorney General

GCBjr/vmo

Mr. Harvey Davis, page 3 (C-699)

APPROVED:  
OPINION COMMITTEE

W. V. Geppert, Chairman  
Pat Bailey  
Roy Johnson  
Roger Tyler  
Wade Anderson

APPROVED FOR THE ATTORNEY GENERAL  
By: T. B. Wright